

R430-70-8. ADMINISTRATION.

- (1) The licensee is responsible for all aspects of the operation and management of the program.

Rationale / Explanation

The license holder may delegate responsibilities under this rule to staff in the child care program. However, ultimate responsibility for compliance with all licensing rules rests with the licensee. The licensee must ensure that he or she has adequate oversight of staff to whom duties have been delegated, in order to ensure that the delegated duties are completed as assigned.

Enforcement

Level 1 Noncompliance: When the rule compliance the licensee fails to demonstrate adequate oversight of is a rule that has been identified as Level 1 Noncompliance. Check with the Bureau Director before citing this rule.

Level 2 Noncompliance: When the rule compliance the licensee fails to demonstrate adequate oversight of is a rule that has been identified as Level 2 Noncompliance. Check with the Bureau Director before citing this rule.

Level 3 Noncompliance: When the rule compliance the licensee fails to demonstrate adequate oversight of is a rule that has been identified as Level 3 Noncompliance. Check with the Bureau Director before citing this rule.

- (2) The licensee shall comply with all federal, state, and local laws and rules pertaining to the operation of a child care program.

Rationale / Explanation

This rule is intended to address problems which are not already addressed in other child care licensing rules, but which involve the violation of a federal, state, or local law or administrative rule of another agency that applies to the operation of a child care program.

Enforcement

This rule is cited only when there is not another licensing rule that addresses a problem. The noncompliance level depends on the law or rule violated. The Bureau will compare the seriousness of the law or rule violated with the noncompliance levels of the most similar child care licensing rules. Check with the Bureau Director before citing this rule.

- (3) The provider shall not engage in or allow conduct that is adverse to the public health, morals, welfare, and safety of the children in care.

Rationale / Explanation

This rule is intended to address problems which are not already specifically mentioned in other child care licensing rules, but which jeopardize children's well-being.

Enforcement

This rule is cited only when there is not another licensing rule that addresses a problem. The noncompliance level depends on the problem. The Bureau will compare the seriousness of the problem with the noncompliance levels of the most similar child care licensing rules. Check with the Bureau Director before citing this rule.

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- (4) The provider shall take all reasonable measures to protect the safety of children in care. The licensee shall not engage in activity or allow conduct that unreasonably endangers children in care.

Rationale / Explanation

This rule is intended to address problems which may arise that are not specifically mentioned in other child care licensing rules, but which jeopardize children's safety.

Enforcement

This rule is cited only when there is not another licensing rule that addresses a problem. The noncompliance level depends on the problem. The Bureau will compare the seriousness of the problem with the noncompliance levels of the most similar child care licensing rules. Check with the Bureau Director before citing this rule.

- (5) Either the program director or a designee with written authority to act on behalf of the program director shall be present at the facility whenever the program is open for care.

Rationale / Explanation

The purpose of this rule is to ensure that there is always a qualified individual on-site who assumes responsibility for the management of the program and the protection of children's health and safety. Lines of responsibility need to be clearly delineated, including the presence at all times of an individual who is designated to have ultimate responsibility for the functioning of the program. CFOC, pgs. 333-334 Standards 8.001, 8.002

Enforcement

Level 1 Noncompliance: If the facility fails to comply with one or more rules (due to an absent director or designee) that have been identified as Level 1 Noncompliance rules. Check with the Bureau Director before citing.

Level 2 Noncompliance: If the facility fails to comply with one or more rules (due to an absent director or designee) that have been identified as Level 2 Noncompliance rules. Check with the Bureau Director before citing.

Level 3 Noncompliance: If the facility fails to comply with one or more rules (due to an absent director or designee) that have been identified as Level 3 Noncompliance rules, or if no director or designee is present, but no rule violations are observed. Check with the Bureau Director before citing.

- (6) Director designees shall be at least 21 years of age, and shall have completed their orientation training.

Rationale / Explanation

The director of a program plays a pivotal role in ensuring the day-to-day smooth functioning of the facility within the framework of appropriate child development principles. The well-being of the children in the facility depends largely upon the knowledge, skills, and dependable presence of a director who is able to respond to long-term and immediate needs, and who is able to engage staff in appropriate decision making that affects their day-to-day practices with children. CFOC, pgs. 11-12 Standard 1.014

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Completion of orientation training prior to assuming director designee duties helps to ensure the smooth functioning of the program and is essential in order to protect the health and safety of the children in care. CFOC, pgs. 17-19 Standard 1.023

Enforcement

Level 2 Noncompliance: If the director designee has not completed his or her orientation training or is less than 18 years old.

Level 3 Noncompliance: If the director designee is at least 18 years old, but not yet 21 years old.

- (7) Each week, the program director shall be on-site at the program during operating hours for at least 50% of the time the program is open to children, in order to fulfill the duties specified in this rule, and to ensure compliance with this rule.**

Rationale / Explanation

The director of a program plays a pivotal role in ensuring the day-to-day smooth functioning of the facility within the framework of appropriate child development principles. The well-being of the children in the facility depends largely upon the knowledge, skills, and dependable presence of a director who is able to respond to long-term and immediate needs, and who is able to engage staff in appropriate decision making that affects their day-to-day practices with children. CFOC, pgs. 11-12 Standard 1.014

Enforcement

Level 1 Noncompliance: If the director is not on-site at least 50% of the time the program is open to children, and the facility fails to comply with one or more rules that have been identified as Level 1 Noncompliance rules. Check with the Bureau Director before citing.

Level 2 Noncompliance: If the director is not on-site at least 50% of the time the program is open to children, and the facility fails to comply with one or more rules that have been identified as Level 2 Noncompliance rules. Check with the Bureau Director before citing.

Level 3 Noncompliance: If the director is not on-site at least 50% of the time the program is open to children, and the facility fails to comply with one or more rules that have been identified as Level 3 Noncompliance rules. Or, if the director is not present at least 50% of the time the program is open to children, but no rule violations are observed. Check with the Bureau Director before citing.

- (8) The program director must have sufficient freedom from other responsibilities to manage the program and respond to emergencies.**

Rationale / Explanation

The purpose of this rule is to ensure that the program director is available and has sufficient freedom to perform the many duties that are required in order to supervise caregivers, ensure adequate communication with parents, monitor and correct health and safety hazards, and otherwise maintain compliance with the licensing rules. CFOC, pg. 12 Standard 1.015

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Enforcement

Program directors may perform a variety of duties in the course of a day, such as substituting for absent staff members, observing or training caregivers in the classroom, conferencing with parents, performing routine maintenance, etc. "Sufficient freedom" means that the program director does not also have permanent duties as a caregiver. However, in small programs with an average daily attendance of 40 children or less, the program director may also have permanent part-time (20 hours per week or less) caregiver duties. In very small programs with an average daily attendance of 30 children or less, the program director may also have permanent full-time caregiver duties.

Always Level 3 Noncompliance.

- (9) There shall be a working telephone at the facility, and the program director shall inform a parent and the Department of any changes to the programs's telephone number within 48 hours of the change.**

Rationale / Explanation

The purpose of the rule is to ensure that the program can contact the parents of children in care, that the parents of children in care can contact the program, and that the program can always contact emergency personnel (fire, police, ambulance, etc.) if needed. CFOC, pg. 222 Standard 5.084

Enforcement

Level 1 Noncompliance: If there is an emergency, and there is not a working telephone at the facility.

Level 2 Noncompliance: If there is no working telephone at the facility.

Level 3 Noncompliance: If the facility has a working telephone, but does not notify parents or the department of a change in phone number.

- (10) The provider shall call the Department within 24 hours to report any fatality, hospitalization, emergency medical response, or injury that requires attention from a health care provider, unless an emergency medical transport was part of a child's medical treatment plan identified by the parent. The provider shall also mail or fax a written report to the Department within five days of the incident.**

Rationale / Explanation

The purpose of this rule is so that the Department can work with programs to correct unsafe or unhealthy conditions and to prevent future or additional harm to children. CFOC, pgs. 141-142 Standard 3.089

Enforcement

For the purposes of this rule, emergency medical response means a call to 911 (or the police, ambulance, or fire department, if any of these are called because of an injury to a child).

Attention from a health care provider means a visit to a licensed professional with prescriptive authority, such as a physician, nurse practitioner, or physician's assistant, and visit to a hospital or doctor. Programs must report

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injuries that require attention from a health care provider as soon as they become aware of the visit to the health care provider (for example, in situations where the parent took the child to a health care provider after leaving the program).

Always Level 3 Noncompliance.

(11) The duties and responsibilities of the program director include the following:

- (a) appoint, in writing, one or more caregivers to be a director designee, with authority to act on behalf of the program director in his or her absence;**

Rationale / Explanation

The director of a program plays a pivotal role in ensuring the day-to-day smooth functioning of the facility within the framework of appropriate child development principles. The well-being of the children in the facility depends largely upon the knowledge, skills, and dependable presence of a director who is able to respond to long-term and immediate needs, and who is able to engage staff in appropriate decision making that affects their day-to-day practices with children. CFOC, pgs. 11-12 Standard 1.014; pg. 334 Standard 8.002

Enforcement

Always Level 3 Noncompliance.

(11) The duties and responsibilities of the program director include the following:

- (b) train and supervise staff to:**
 - (i) ensure their compliance with this rule;**
 - (ii) ensure they meet the needs of the children in care as specified in this rule; and**

Rationale / Explanation

The purpose of this rule is to ensure that all program staff have the training and ongoing supervision needed to ensure they protect children's health and safety as required in the licensing rules. CFOC, pgs. 17-19 Standard 1.023; pg. 21 Standard 1.025; pgs. 41-42 Standards 1.051, 1.052, 1.054, 1.055, 1.056

Enforcement

If staff are trained to report suspected child abuse and neglect to the director, and then the director and caregiver together report to CPS or the police, this is acceptable. It is also acceptable if the caregiver discusses the suspected abuse with the director prior to reporting, and the director and caregiver together conclude that it is not abuse. For example, if the director knows about a fall a child had that resulted in an injury, but the caregiver does not know about the fall, and suspects the injury may have resulted from abuse.

Level 1 Noncompliance: If a caregiver is not adequately trained or supervised to comply with any rule and a child is harmed as a result of this. Check with the Bureau Director before citing.

Always Level 3 Noncompliance otherwise. Check with the Bureau Director before citing.

(11) The duties and responsibilities of the program director include the following:

- (b) train and supervise staff to:**
 - (iii) ensure that children are not subjected to emotional, physical, or sexual abuse while in care.**

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Enforcement

Always Level 1 Noncompliance. Check with the Bureau Director before citing.

- (12) The provider shall establish and follow written policies and procedures for the health and safety of the children in care.**

Rationale / Explanation

The purpose of this rule is to ensure that programs have written policies in place to protect children's health and safety. An organized, comprehensive approach to ensuring children's health and safety is necessary in child care programs. Such an approach requires written plans, policies, and procedures, and adequate record-keeping so that there is consistency over time and across staff, as well as an understanding between parents and caregivers. This allows clear expectations to be communicated to staff, and helps program directors train and hold staff responsible for following the written policies. CFOC, pgs. 334-336 Standards 8.004, 8.005; pg. 337 Standard 8.008; pg. 338 Standard 8.010; pg. 360

A yearly review of the program's written policies encourages administrators to keep this information current. Current information on health and safety practices that is developed cooperatively among caregivers and parents invites better compliance with health and safety procedures. CFOC, pg. 355 Standard 8.040

Enforcement

We will issue a finding if the program does not have any written policies, or has them but the provider does not follow them.

Level 2 Noncompliance: If the provider does not follow the written policies for (a) - (d) or (g) - (j).

Level 3 Noncompliance: If the provider does not follow the written policies for (e), (f), or (k).

- (12) The provider shall establish and follow written policies and procedures for the health and safety of the children in care. The written policies and procedures shall address at least the following areas:**
- (a) supervision and protection of children at all times, including when they are using the bathroom, on the playground, and during off-site activities;**
 - (b) maintaining required caregiver to child ratios when the program has more than the expected number of children, or fewer than the scheduled number of caregivers;**
 - (c) procedures to account for each child's attendance and whereabouts;**
 - (d) procedures to ensure that the program releases children to authorized individuals only;**
 - (e) confidentiality and release of information;**
 - (f) the use of movies and video or computer games, including what industry ratings the center allows;**
 - (g) recognizing early signs of illness and determining when there is a need for exclusion from the program;**
 - (h) discipline of children, including behavioral expectations of children and discipline methods used;**
 - (i) transportation to and from off-site activities, or to and from home, if the program offers these services; and**
 - (j) if the program offers transportation to or from school, policies addressing:**
 - (i) how long children will be unattended before and after school;**

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- (ii) what steps will be taken if children fail to meet the vehicle;
- (iii) how and when parents will be notified of delays or problems with transportation to and from school; and
- (iv) the use of size-appropriate safety restraints.
- (k) if the program has a computer that is connected to the internet and that is accessible to any child in care:
 - (i) written policies for parents explaining how children's computer use is monitored; and
 - (ii) a signed parent permission form for each child who is allowed to use the computer.

Rationale / Explanation

The purpose of this rule is to ensure that programs have written policies in place to protect children's health and safety. An organized, comprehensive approach to ensuring children's health and safety is necessary in child care programs. Such an approach requires written plans, policies, and procedures, and adequate record-keeping so that there is consistency over time and across staff, as well as an understanding between parents and caregivers. This allows clear expectations to be communicated to staff, and helps program directors train and hold staff responsible for following the written policies. CFOC, pgs. 334-336 Standards 8.004, 8.005; pg. 337 Standard 8.008; pg. 338 Standard 8.010.

A yearly review of the program's written policies encourages administrators to keep this information current. Current information on health and safety practices that is developed cooperatively among caregivers and parents invites better compliance with health and safety procedures. CFOC, pg. 355 Standard 8.040

Enforcement

We will issue a finding if the program has written policies, but they are missing one or more of the required topics.

Always Level 3 Noncompliance.

- (13) The provider shall ensure that the written policies and procedures are available for review by parents, staff, and the Department during business hours.**

Rationale / Explanation

Current information on health and safety practices that is developed cooperatively among caregivers and parents invites better compliance with health and safety procedures. CFOC, pg. 355 Standard 8.040

Access to these written policies by parents and staff is important to ensure that all parties understand the program's policies and expectations, and to help staff remember and follow the policies. Review of the written policies by the Department is used to determine, in part, the program's compliance with the licensing rules. CFOC, pg. 367 Standard 8.057

Enforcement

Always Level 3 Noncompliance.